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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,005	06/17/2002	Markus Zeller	241907-1030	8855

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EXAMINER
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AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,005

Applicant(s)

ZELLER ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/13/02</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Claims 1-12 are presented for examination; claim 1 independent.

#### ***Priority***

2. Applicants claim to foreign priority has fulfilled requirements of 35 USC 119 and is hereby acknowledged.

#### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on June 13, 2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner. See enclosed initialed copy of PTO-1449.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The disclosure does not provide for a bus comprising a trunk section connected to the first network terminating device; a hub for each network terminating device with the hubs being located in the trunk section; and a secondary section for each network terminating device, with each network terminating device being able to communicate with the first network terminating device via the secondary section provided for the same and the corresponding hub. It would cause undue experimentation for one of ordinary skill to realize the limitations recited in the aforementioned claim. If this is an oversight by the Office, Applicant is invited to point out specifically where the claimed limitations can be found in the disclosure.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakita in view of Lebrun et al. (USPN 5,548,579) (hereinafter Lebrun).

7. Referring to claim 1, Kawakita discloses a communications network for an office building so as to connect at least three terminal units within the office, comprising:

a central data bus 12 for transmitting the data to be transmitted between at least the said three terminal units 10 (Figure 5; col. 4, lines 20-30);

a first network terminating device (9 on 20<sup>th</sup> floor Block 1) which is provided for a first terminal unit and which comprises interfaces for communication devices which may be disposed in the first terminal unit (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

a first interface 10 which is allocated to said first network terminating device and which is disposed between the central data bus and the first network terminating device and which is designed for controlling an access of the first network terminating device to the central data bus (i.e. FDDI node) (col. 4, lines 20-30);

a second network terminating device (9 on 19<sup>th</sup> floor, block 2) which is provided for a second terminal unit and which comprises interfaces for communication devices which may be disposed in the second terminal unit (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

a second interface 10 which is allocated to said second network terminating device and which is disposed between the central data bus and the second network terminating device and which is designed for controlling an access of the second network terminating device to the central data bus (i.e. FDDI node) (col. 4, lines 20-30);

a third network terminating device (9 on 5<sup>th</sup> floor, block 2) which is provided for a third terminal unit and which comprises interfaces for communication devices which may be disposed in the third terminal unit (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

a third interface 10 which is allocated to said third network terminating device and which is disposed between the central data bus and the third network terminating device and which is designed for controlling an access of the third network terminating device to the central data bus (i.e. FDDI node) (col. 4, lines 20-30);

wherein the central data bus 12 is a jointly utilized transmission path which may be accessed by the first, second, or third network terminating device without considering other network devices (i.e. the first, second or third network devices do not require to go through another network device to access the transmission ring) (Figure 5, all);

wherein said first, second, and third interface are arranged for controlling said access to the first, second, and third network terminating device on the central data bus such that guaranteed transmission parameters are guaranteed for a communication between the first second and third network terminating device via the central data bus (Kawakita discloses the transmission ring 20 is utilized as an FDDI ring, and as seen in Milway, USPN 6,122,279, FDDI can guarantee a minimum bandwidth connection

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thereby providing the QoS necessary to prevent distortions, see col. 1, lines 45-51, and therefore this feature would be inherent to the system of Kawakita) (Applicant is invited to view MPEP 2131 regarding using a secondary reference to show that a characteristic not disclosed in the reference is inherent and *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)).

Kawakita does not specifically disclose each network terminating device or each communication device connected to the network terminating device is formed so as to arrange, together with the interface which has been allocated to the same, transmission parameters for a transmission via the central data bus for achieving an *adaptive* service quality. In analogous art, Lebrun discloses another communications network to connect at least three terminal units which discloses network terminating device or each communication device connected to the network terminating device is formed so as to arrange, together with the interface which has been allocated to the same, transmission parameters for a transmission via the central data bus for achieving an adaptive service quality (the Office takes the term "adaptive service quality" as a QoS characteristic which can change, such as the bandwidth allocation request of Lebrun) (e.g. abstract). It would have been obvious to one of ordinary skill in the art to combine the teaching of Lebrun with Kawakita in order to allow the branch terminals of Kawakita (i.e. the Offices in each block) to incorporate different QoS requirements since different offices may have different requirements, such as one office being the corporate server HQ, while another may be a department with reduced requirements and a lower priority, thereby

allowing efficient utilization of bandwidth amongst the Offices of Kawakita and allowing utilization without undue overhead processing.

8. Referring to claim 2, Kawakita disclose the central data bus is a broadband cable network (i.e. optical fiber cables) (col. 4, lines 40-44).

9. Referring to claim 3, Kawakita discloses the interfaces of the first through third network devices are interfaces for an Ethernet system (i.e. the branch system networks of the Offices are Ethernet standard) (col. 5, lines 15-45).

10. Referring to claim 4, Kawakita discloses the invention substantively as described in claim 1. Kawakita further discloses a modem pool (which is an interface to an external communication system so as to permit a data communication connection between the communication devices connected to the network terminating devices and a subscriber of the external communication system) which are connected to the branch system LAN through a communication server (i.e. the first network terminating device) (col. 6, lines 35-49). Kawakita does not specifically disclose permitting a voice as well as a data communication, however if there is a modem pool, there inherently must be a telephone line, since a modem pool is useless without an external connection to a telephone system. It is also well known that corporate offices require and utilize telephone systems with multiple lines, and therefore would be obvious to one of ordinary skill in the art to allow a voice connection over the inherent telephone lines.



11. Referring to claim 5, Kawakita inherently discloses the external communication system is a broadband copper cable (i.e. a telephone connection inherently connected to the modem pool) (col. 6, lines 35-49).

12. Referring to claim 6, Kawakita discloses the data bus is embodied by an optical fiber cable (col. 4, lines 44-50).

13. Referring to claim 7, Kawakita inherently discloses at least one terminating device is formed so as to enable a communication between the communication devices connected to the interfaces of the same without transmitting data concerning this communication via the central data bus on a broadband basis since it is understood that the computers of each office can communicate with one another (col. 5, lines 30-48).

14. Referring to claim 8, Kawakita inherently discloses the features of the claim. A trunk section (i.e. the data bus) a hub (col. 5, lines 30-45) located in the trunk section (they are connected to the trunk) and a secondary section (i.e. the LAN) with each network terminating device being able to communicate via the secondary section provided (i.e. to utilize the modem pool, the office must be able to access the LAN) (col. 6, lines 35-50).

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15. Referring to claim 9, Kawakita discloses the interfaces are formed to establish one parameter such as bandwidth reservation (see rejection based on Milway disclosed above).

16. Referring to claim 10, Kawakita discloses said first, second, and third interface have been arranged so as to implement a decentralized selection procedure for controlling said access to the data bus (FDDI utilizes a token system) (col. 4, line 52).

17. Referring to claim 11, Kawakita discloses the interface is located so as to implement a token-passing procedure (i.e. append-token-protocol) (col. 4, line 52).

18. Referring to claim 12, Kawakita discloses the central data bus with respect to its data transmission capacity is scalable on a required data capacity (this is an inherent feature of any token ring implementation, since the larger the ring, such as the more nodes are implemented, the more data can be implemented on the ring).

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Milway et al. (USPN 6,122,279) discloses an ATM switch.

21. Edson (USPN 6,526,581) discloses a multi-service in-home network with an open interface.

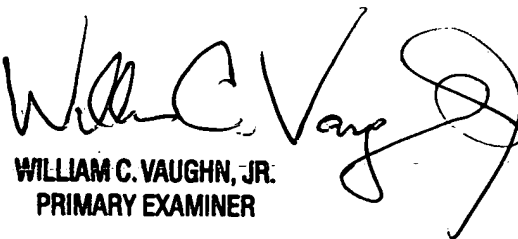
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA  
April 18, 2005



WILLIAM C. VAUGHN, JR.  
PRIMARY EXAMINER